

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION**

CHRISTA COOK,	)	
	)	
Plaintiff,	)	
	)	Case No.: 11-cv-01020-JDB-egb
v.	)	
	)	
UGN, INC.,	)	
	)	
Defendant.	)	

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**REPORT AND RECOMMENDATION**

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On referral through the Order Adopting Report and Recommendation, Dismissing Case with Prejudice and Referring Motion to Magistrate Judge [D.E. 48] is Defendant UGN., Inc.'s Petition for Fees Pursuant to the Magistrate Judge's Report and Recommendation [D.E. 47].

**Relevant Case History**

Throughout the time this Court has been involved with this lawsuit, the Plaintiff was uncooperative to the point of resisting the discovery efforts of the Defendant. Specifically, at the instance of her deposition, the Court had to specially set a show cause hearing to be followed by her deposition at the Federal Courthouse in Jackson in an effort to accomplish her discovery deposition.<sup>1</sup> During this hearing on August 6, 2012, Plaintiff was ordered to provide her deposition testimony and immediately following that hearing, this Judge was called into the deposition on two separate occasions by Defense Counsel because Plaintiff continued to refuse to answer his questions or otherwise participate in this discovery. Plaintiff was given every opportunity to cooperate and each time was advised of the possible sanction of dismissal of her lawsuit. Her response essentially was she did not care one way or the other about this litigation

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<sup>1</sup> In further accommodation to Plaintiff, the Court reset the show cause hearing for a later date.

and would not answer the questions. Before the deposition was terminated, Counsel for Defendant orally renewed his request for attorneys' fees and expenses associated with this aborted deposition.

### **Report and Recommendation**

It is the Report and Recommendation of the Magistrate Court that pursuant to Rule 37(b)(2)(C), the Plaintiff should pay the reasonable and necessary expenses, including attorneys' fees, caused by her willful failure to obey this Court's order to participate in her deposition. Further, this Court finds the submitted attorneys' fees of \$5,861.00 and expenses of \$989.80 are both reasonable and necessary.

Respectfully Submitted,

**s/Edward G. Bryant**  
EDWARD G. BRYANT  
UNITED STATES MAGISTRATE JUDGE

Date: **October 31, 2012**

**ANY OBJECTIONS OR EXCEPTIONS TO THIS REPORT AND RECOMMENDATIONS MUST BE FILED WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY OF THE REPORT AND RECOMMENDATIONS. 28 U.S.C. § 636(b)(1). FAILURE TO FILE THEM WITHIN FOURTEEN (14) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND ANY FURTHER APPEAL.**